

REMARKS

Applicant respectfully requests reconsideration of this application in light of the remarks made herein. Claims 2-21 are allowable. Claim 22 stands rejected under § 103(a) as being obvious over U.S. Patent No. 5,442,500 to Hidano et al. (hereinafter referred to as "Hidano") in view of U.S. Patent No. 5,818,723 to Dimitri (hereinafter referred to as "Dimitri").

Rejections Under 35 U.S.C. § 103

Claim 22 stands rejected under § 103(a) as being unpatentable over Hidano in view of Dimitri.

Independent claim 22 claims a magazine-based data cartridge library that features "a drive bay assembly for accommodating said drive, said drive bay assembly comprising a first open side exposed to said cartridge transport device, a second open side exposed to a space that is operator accessible and a passageway extending between said first and second open sides" (emphasis added). As an initial matter, Applicant presumes that the Examiner has again mistakenly repeated verbatim his rejection of previously canceled claim 1 in place of an official rejection for claim 22. Therefore, Applicant will make remarks accordingly.

On pg. 3 of the Office Action, the Examiner asserts that:

"In such a constructed drive assembly, the drive bay, which accommodates drives 95 (Fig. 3 in Hidano et al), includes a first open side (the left front side of 95) exposed to the cartridge transport device and a second open side (the right and rear side of 95) exposed to a space that is operator accessible and a passageway for the storage medium passing through in loading process extending between the first and second open sides."

As indicated by the Examiner's aforementioned assertion, the Examiner only identifies a drive 95, but fails to identify the disclosure of the drive bay in Hidano's disclosure or Fig. 3. Furthermore, Hidano's purported disclosure of a "second open side" does not exist as can be seen by the cross-hatched wall of element 21 just to the right and rear of the drive 95. In addition, there is no disclosure of a passageway for Hidano's drive, which is tacitly admitted by the Examiner's failure to expressly identify the passageway in his assertion. Moreover, there is no mention in Hidano of any opening that is accessible to an operator. These facts are further illustrated by the Examiner's admission in both the office actions of

January 9, 2006 and in June 19, 2006 (under the *Allowable Subject Matter* section) wherein the Examiner writes using bold text,

“The following is a statement of reasons for the indication of allowable subject matter:

- With regard to claims 2 and 18, as the closest reference of record, the combination of Hidano et al (US 5,442,500) and Dimitri (5,818,723) discloses a magazine-based data cartridge library, as claimed in claim 1 further includes drive bay assembly comprising; a housing structure that defines a first open side which is exposed to the cartridge transport device, **but fails to show: a second open side which is exposed to a space that is operator accessible, and a passageway extending between the first and second open sides;...**”

Because Hidano and Dimitri, alone or in combination, neither teach nor suggest all of the elements of claim 22, Applicant respectfully submits that claim 22 is allowable.


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Authorization To Charge Necessary Fees

The Commissioner is hereby authorized to charge any necessary fees associated with this submission, or credit any overpayment, to Deposit Account No. 50-0289.

Respectfully submitted,

Dated: 10/30/06


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